IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.1089 OF 2004

Rajendra S. Kothare. ... Plaintiff.

vs.

Sneha R. Kothare ... Defendant.

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Mr.R.T.Parekh, for Plaintiff.

None for Defendant.

**CORAM: D.K.DESHMUKH,J**.

**DATED: 23rd June,2005**

**P.C**.:-

1. In this suit, plaintiff is claiming a decree that the decree of divorce passed by the Foreign Court dissolving the marriage between plaintiff and defendant is invalid and is null and void. As by the decree passed by the Foreign Court, the plaintiff and defendant have ceased to be the husband and wife. If the decree as claimed by the plaintiff is granted in his favour by this Court, the marriage between plaintiff and defendant which is dissolved because of the decree of divorce, will again come into existence. The decree claimed in this suit if granted will result in alteration of the marital status of the plaintiff

and defendant. Section 7 of the Family Courts Act lays down that the Family Court has all the jurisdiction exercisable by any District Court or any subordinate civil court under any Law for the time being in force in respect of suits and proceedings of the nature referred to in the Explanation. Perusal of Explanation shows that suits for declaration as to the matrimonial status of any person, is mentioned, and therefore, the present suit which relates to the matrimonial status of both plaintiff and defendant would be triable exclusively by the family court. Because of Section 8 of the Family Courts Act, the jurisdiction of this Court as a Court of Original Civil Jurisdiction is excluded to try suits which are triable by the family Court. Therefore, this Court does not have jurisdiction to try the suit. At this stage, the learned Counsel for plaintiff requests that the plaint and other proceedings filed in this Court and presently pending, be returned to him for presentation in the Family Court. It is accordingly, so ordered. The presentation to the Family Court be made within a period of Four Weeks from today.

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